

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI

UNITED STATES OF AMERICA

V.

CRIMINAL NO. 3:21-CR-107

JAMARR SMITH, et al.

**GOVERNMENT'S RESPONSE TO DEFENDANTS'
MOTION IN LIMINE AS TO PREJUDICIAL PHOTOGRAPHS**

Comes now the United States of America, by and through the United States Attorney for the Northern District of Mississippi, and in response to defendants' Motion in Limine (Doc. #108) would respectfully show unto the Court the following, to wit:

The defendants seek to preclude the government from introducing photographs taken from Facebook of the defendants which photographs depict firearms. The government has no intention of offering such photographs into evidence during the direct examinations of any of its witnesses. However, should the defendants open the door on cross-examination by asking or implying that none of the defendants have access to firearms, or should counsel for the defendants, by their questions or statements, imply that the defendants don't have access to firearms, then the photographs would become relevant and the government would seek to use the photographs in questioning the appropriate witnesses.

Furthermore, if the defendants were to take the stand, the government may ask them if one of them has access to firearms and if the defendants deny that they do, the photographs from Facebook would become relevant. Likewise, other potential defense witnesses who know the defendants might be asked if the defendants have access to firearms and again, if the witnesses deny that they do, or states that they don't know, then the photographs would become relevant.

Finally, the proof at trial, from the testimony of the victim, will be that the assailant used a firearm in the commission of the crime. If the government is precluded from offering the photographs of firearms into evidence, the defendants should be precluded in closing argument from asserting that there is no evidence that the defendants had access to any firearms (thus implying that the defendants couldn't have been involved in a crime in which a firearm was used).

Respectfully submitted, this the 16th day of February, 2023.

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CERTIFICATE OF SERVICE

I hereby certify that on February 16, 2023, I electronically filed the foregoing with the Clerk of the Court using the ECF system which sent notification of such filing to the following:

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